

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RODNEY WILCOX,

Petitioner,

Case Number 04-10037-BC
Honorable David M. Lawson

v.

PAUL RENICO,

Respondent.

ORDER DENYING A CERTIFICATE OF APPEALABILITY

This Court has denied Rodney Wilcox's petition for a writ of habeas corpus which was brought pursuant to 28 U.S.C. § 2254. This matter is now before the Court for a determination of whether a certificate of appealability should issue.

I.

A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Courts must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F.3d 1306, 1307 (6th Cir. 1997). To receive a certificate of appealability, "a petitioner must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (internal quotes and citations omitted).

The petitioner raised one issue in his petition. The claim appears to be based on his mistaken belief that a police officer testified that it would be a waste of time and taxpayers' money to test his

clothing for blood evidence, implying that the officer was so certain of the petitioner's guilt that there was no need to test anything. The officer actually made that statement with regard to the clothing of one of the petitioner's co-defendants, not the petitioner; it was not necessary to test the blood stain on the co-defendant's clothing because the co-defendant admitted that he was at the scene. Thus, the petitioner has not made a substantial showing of the denial of a constitutional right and reasonable jurists would not debate the issue.

II.

Accordingly, it is **ORDERED** that a certificate of appealability is **DENIED** with respect to the petitioner's claim.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: February 2, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 2, 2006.

s/Tracy A. Jacobs
TRACY A. JACOBS